IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6741 of 2007()

CRIME NO. 296/07 OF PALODE POLICE STATION

PETITIONER/ACCUSED

BIJU,KALYANI KARIKAKATH, IDINJAR, PALODE

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS: COMPLAINANT

SUB INSPECTOR,PALODE POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6741 of 2007

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Dated this the 6th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner, who allegedly has criminal antecedents of involvement in Abkari offences, was allegedly found to keep in his possession 5 litres of arrack when the police party detected the offence on 15.8.2007. He allegedly abandoned the article and took to his heels. His identity was ascertained at that point of time. The contemporaneous seizure mahazar and the F.I.R. reveal the name of the petitioner as the accused. Investigation is in progress. The petitioner has not been arrested. He apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has been unnecessarily arrayed as an accused. He may be granted anticipatory bail, submits the learned counsel.

3. The learned Prosecutor opposes the application. There are no circumstances whatsoever to invoke the discretion under

Section 438 Cr.P.C. in favour of the petitioner, submits the learned Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. There are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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